



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

GORRINGE *et al.*

Appl. No. 09/763,750

Filed: June 4, 2001

For: **Superoxide Dismutase as a
Vaccine Antigen**

Confirmation No. 1196

Art Unit: 1645

Examiner: Ford, V.

Atty. Docket: 1581.0780000/RWE/FRC

#18
(FW)
11/21/02

Reply To Restriction Requirement

RECEIVED

NOV 20 2002

Commissioner for Patents
Washington, D.C. 20231

TECH CENTER 1600/2900

Sir:

In reply to the Office Action dated **October 21, 2002**, (PTO Prosecution File Wrapper Paper No. 17), requesting an election of one invention to prosecute in the above-referenced patent application, Applicants hereby provisionally elect to prosecute the invention of **Group I**, represented by claims 1-5, 6-8, 10-13 and 15-17. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

This election is made **with** traverse.

The basis for the restriction requirement is the Examiner's assertion that the claims of Group I (claims 1-5, 6-8, 10-13 and 15-17) lack novelty under PCT Article 33(2) as being anticipated by Beaman, L. and Beaman, B.L., *Infection and Immunity* 58:3122-3128 (1990) ("Beaman"). See Paper No. 17, page 4. Applicants respectfully disagree with this assertion.

Applicants submit that Beaman does not teach a Cu,Zn-SOD as recited in the claims of group I. Beaman describes a study of *Nocardia asteroides* SOD. As indicated in a subsequent publication (on which B.L. Beaman is named as an author), the preferred ligand for *N. asteroides* SOD appears to be manganese (Mn). See Alcendor *et al.*, *Gene* 164:143-

147 (1995) (copy enclosed herewith as Exhibit A) (*see* especially page 145, top left column).

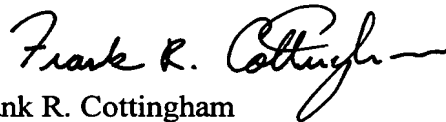
Hence, the SOD of Beaman is *not* a Cu,Zn-SOD. Accordingly, the claims of group I are novel over Beaman.

Reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Frank R. Cottingham
Attorney for Applicants
Registration No. 50,437

Date: NOV. 19, 2002

1100 New York Avenue, N.W.
Suite 600
Washington, D.C. 20005-3934
(202) 371-2600